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ARIZONA ATTORNEY GENERAL

April 2, 1954
Letter Opinion
No. 54-93-L

Mr. H. Wm. Tennyson, Actuary
Division of Insurance
Arizona Corporation Commission
State Building
Phoenix, Arizona

Re: Policy form L-103, Security Reserve
Insurance Company.

Dear Mr. Tennyson:

This is in reply to your request received April 1, 1954, regarding our opinion as to the policy form of the above named insurance company.

An examination of this policy form discloses the following:

1. Page 1 states that this policy covers death from any cause. A reading of this policy makes it apparent that it does not cover death resulting from military or naval service in time of war (paragraph 18), and it does not cover loss resulting in death or dismemberment from any sickness, etc., existing prior to the effective date of the policy or last reinstatement.
2. Page 1 of this policy indicates that the amount of insurance will increase by 5% for a period of five consecutive years. It should be pointed out that this increase does not apply to a coverage of \$3000. 61-1017, A.C.A. 1939, 1952 Cumulative Supplement, prohibits death benefits in excess of \$3000.
3. Page 2 of this policy indicates that the policy is free from restrictions as to race, creed, color, occupation, and travel, place of residence, or death. I believe that this provision is inconsistent with the military or naval service clause which excludes loss resulting from military or naval service in time of war as a risk not assumed under the policy.

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4. Page 2 of the policy, part C, clause 1, provides:

"(1) This policy, including any written amendment thereto and the application therefor, a copy of which will be furnished upon request, shall constitute the entire contract between the company and the Applicant. All statements made by the Applicant and other Insureds shall in the absence of fraud, be deemed representations."

61-1017 (a) 3 A.C.A. 1939, 1952 Cumulative Supplement, provides:

"61-1017. Benefit Certificate requirements.--
(a) Each benefit certificate shall provide that:

* * * * *

(3) The certificate, including any written amendment thereto, and, at the option of the corporation, the application therefor when attached to the policy at the time of issuance, constitute the entire contract between the parties and is incontestable after two (2) years from the date of issuance or two (2) years from the date of the last reinstatement, except for non-payment of premiums or assessments."

The above-quoted clause of this policy provides that the application shall constitute a part of the contract without the requirement that it be attached to the policy at the time of issuance and, therefore, this clause is not in conformity with the law.

5. Page 2 of the policy, part E, clause 1, provides:

"(1) The premiums calculated on this policy are based on the annual basis but for the convenience of our insureds, it may be paid monthly, quarterly, semi-annually, or annually as outlined on the face hereof; but in the event of death or dismemberment of any insured the balance of the policy year or any part thereof may be deducted from any settlement hereunder."

61-1018, A.C.A. 1939, 1952 Cumulative Supplement, provides:

"61-1018. Prohibited provisions.-- No corporation shall: * * * * *

(2) Authorize the deduction of any premium or assessment from any benefit payable under the terms of the certificate, except such premiums or assessments as may be due or covered

by written order or note at the time of payment of the benefit."

The above-quoted clause of the insurance policy does not provide that the premium or assessment shall be due on a yearly basis. The policy does provide that the premiums are calculated on an annual basis and are payable monthly, quarterly, semi-annually, or annually. If a policy holder selects a basis of payment other than an annual payment, then his premiums or assessments for future months would not necessarily be due at the time of his death, and could not be deducted from the benefits payable unless covered by written order or note at the time of payment of the benefit. This objection may be overcome by rewording of this clause to make the premiums and assessments due on an annual basis, even though payable on a different basis.

6. Page 3 of the policy, clause 6, should have the word "death" inserted after the word "a" and before the word "claim".
7. Page 4 of the policy proof which shows the cover ~~page of the~~ policy indicates that the company pays for death resulting from any cause, anywhere, and it is objectionable in the same manner as listed in 1. above.

If the application form is to be attached and made a part of this policy, we should also pass upon its conformity with law.

For the foregoing reasons it is our opinion that this policy form is not in conformity with the law.

Yours very truly,

JAMES E. HUNTER
Assistant to The
Attorney General

JEH:LR